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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/681,790
Filing Date: June 05, 2001
Appellant(s): DE VRIES, JEAN PIERRE

Mark A. Watson
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed July 29, 2005.

(1)   Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2)   Related Appeals and Interferences

A statement indicating that no related appeals and interferences, which will directly affect

or be directly affected by or have a bearing on the decision in the pending appeal is contained in

the brief.

(3)   Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4)   Status of Amendments

The Appellant's statement of the status of amendments after final rejection contained in

the brief is correct.

(5)   Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is deficient. 37 CFR

41.37(c)(1)(v) requires the summary of claimed subject matter to include: (1) a concise

explanation of the subject matter defined in each of the independent claims involved in the

appeal, referring to the specification by page and line number, and to the drawing, if any, by

reference characters and (2) for each independent claim involved in the appeal and for each

dependent claim argued separately, every means plus function and step plus function as

permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or

acts described in the specification as corresponding to each claimed function must be set forth

with reference to the specification by page and line number, and to the drawing, if any, by

reference characters.

The brief is deficient as to claim 1. Appellant's summary contends that partial

disclosures of interests are claimed in the language of claim 1. However, claim 1 is merely a

comparison matching system without "partially disclosing [any] interests (Appellant's brief

pages 2-4)."

The summary of claimed subject matter contained in the brief is correct as to independent

claims 10 and 17.

(6)   Grounds of Rejection to be Reviewed on Appeal

The Appellant's statement of the issues in the brief is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,112,181	*Shear et al.*	*8-2000*
5,926,812	*Hilsenrath et al.*	*7-1999*

(9)   ***Grounds of Rejection***

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shear et al. (hereinafter Shear), U.S. Patent 6,112,181 in view of Hilsenrath et al. (hereinafter Hilsenrath), U.S. Patent 5,926,812.

As per claims 1, Shear teaches a system for determining shared interests between at least two sets of interests, comprising: progressively comparing each interest in each set of interests to interests in every other set of interests (column 14, lines 12-26; figures 16A-C and associated text; column 8, line 26 – column 30, line 50); analyzing the results of the progressive comparison for determining whether any interests belonging to any set of interests partially matches any interests in any other set of interests (column 14, lines 27-30; column 8, line 26 – column 30, line 50); terminating the progressive comparison for specific interests with respect to each set of interests wherein the specific interests do not partially match any interests (Figures 18-21 and associated text; column 8, line 26 – column 30, line 50) and determining all shared interests between any of the at least two sets of interests by continuing the progressive comparison of interests to identify all interests belonging any set of interests that completely match interests in any other set of interests (Figures 16-20 and associated text; column 8, line 26 – column 30, line 50). Shear does not explicitly teach continuing the progressive comparison for specific interests with respect to each set of interests wherein the specific interests do partially match any interests. Hilsenrath teaches a comparison method for specific interests with respect to each set of interests wherein the specific interests do partially match any interests (Figures 1-5 and associated text; columns 4-13). It would have been obvious to one of ordinary skill in the art at the time the

invention was made to combine Shear's system and method for matching with Hilsenrath's

cluster generation and cluster similarity measurement to achiever a more accurate search result

or comparison match, as per teachings of Hilsenrath.

As per claim 2, Shear discloses the system of claim 1 wherein each set of interests is encoded

using a one-way hash for preventing an identification of partially matched encoded interests

(Figure 26C, 29C, 32C, 42C and associated text).

As per claim 3, Shear discloses the system of claim 1 wherein each interest in each set of

interests is encrypted (Figures 11, 12 and associated text; columns 25-30).

As per claim 4, Shear discloses the system of claim 1 wherein each set of interests is

identified by unique users (column 19; Figures 29A and associated text).

As per claim 5, Shear discloses the system of claim 1 wherein each set of interests is

identified by unique users from a list of predefined interests (Figure 53 and associated text).

As per claim 6, Shear discloses the system of claim 1 further comprising determining

whether specific interests are closely matched with any interests in any other set of interests after

terminating the progressive comparison for specific interests which do not partially match any

interests (columns 9-10).

As per claims 7 and 20, Shear discloses the system of claims 6 and 19 wherein interests are

categorized in a hierarchical structure in order to facilitate the determination as to whether the

specific interests are closely matched with any interests in any other set of interests (columns 15-

16).

As per claim 8, Shear discloses the system of claim 1 wherein all shared interests are

disclosed between sets of interests having the shared interests (columns 8-10).

As per claim 9, Shear discloses the system of claim 1 wherein progressively comparing each interest further comprises progressively transmitting each interest via at least one encrypted communications channel (columns 14-15).

As per claims 10 and 17, Shear teaches a computer-implemented process/computer-readable medium for automatically determining whether unique entities have any matched interests without disclosing non-matched interests, comprising: providing a set of interests for each entity (column 14, lines 12-26; figures 16A-C and associated text; column 8, line 26 – column 30, line 50); encoding each interest for each set of interests (Figure 26C and associated text); partially disclosing each encoded interest in each set of interests to each unique entity (column 27); automatically performing a comparison of each partially disclosed encoded interest with the partially disclosed interests in each other set of interests (column 27); determining whether there is a partial match of interests between the partially disclosed interests of any unique entities (columns 26-28); and automatically identifying interest matches between any unique entities through the continued automatic partial comparison of each encoded interest (Figure 10 and associated text; columns 27-30). Shear does not explicitly teach continuing to automatically perform the partial comparison of each encoded interest for specific interests for as long as there is a partial match of the specific interests. Hilsenrath teaches continuing to automatically perform the partial comparison of each encoded interest for specific interests for as long as there is a partial match of the specific interests between any unique entities (Figures 1-5 and associated text; columns 4-13). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Shear's system and method for matching with Hilsenrath's

cluster generation and cluster similarity measurement to achiever a more accurate search result

or comparison match, as per teachings of Hilsenrath.

As per claim 11, Shear discloses the computer-implemented process of claim 10 wherein

encoding each interest comprises encoding each interest using a one-way hash (Figures 11, 12

and associated text; column 27).

As per claims 12 and 18, Shear discloses the computer-implemented process of claims 10

and 17 wherein automatically identifying interest matches between any unique entities comprises

identifying complete interest matches (columns 54-58).

As per claims 13 and 19, Shear discloses the computer-implemented process of claims 10

and 17 wherein automatically identifying interest matches between any unique entities comprises

identifying close interest matches (column 66).

As per claims 14, 22 and 23, Shear discloses the computer-implemented process of claim 10

17 and 22 wherein partially disclosing each encoded interest in each set of interests to each

unique entity comprises transmitting each partially discloses interest via at least one encrypted

communications channel (columns 14-15).

As per claim 15, Shear discloses the computer-implemented process of claim 10 wherein

encoding each interest for each set of interests comprises using a common encoding scheme for

each set of interests (columns 54-58).

As per claim 16, Shear discloses the computer-implemented process of claim 15 wherein a

new common encoding scheme is used each time new sets of interests are compared (columns

68-70).

As per claim 21, Shear discloses the computer-readable medium of claim 17 wherein each

interest is encoded prior to partially revealing each interest of each entity to each other entity

(Figures 11, 12 and associated text; columns 14-15, 27, 54-58).

(10)   Response to Argument

The examiner submits that Appellant's arguments with regards to the claimed subject

matter begin on the last paragraph of page 11. The examiner will not squander the Board's time

addressing Appellant's viewpoint and repetition of the rejection that is available for review as

part of the file wrapper. Furthermore, Appellant's discussion of the admissibility of extraneous

evidence cited from a website linked to a senate judiciary hearing unrelated to the claimed

subject matter will not be addressed. On the other hand, the examiner will address the arguments

and elucidate the subject matter pertaining to the claims as rejected by the cited prior art.

a.   Subject Matter of Independent Claim 1:

As per Claim 1, Appellant proposes a "system for determining shared interests between at

least two sets of interests." Interests are progressively compared and analyzed to determine

whether i) any set of interests partially match any interests in any other set of interests" or ii)

terminate such comparison when "the specific interests do not partially match any interests."

"These sets of interests, 205, 210 and 215, are preferably compiled using conventional

techniques, such as by user selection of interests from a list of interests, or user entry of any

desired characters, words, phrases, numbers, etc. for representing interests (Appellant's

specification paragraph 0043)."

Appellant further defines this matching mechanism "[i]n the most general case, any string

of bits representing interests is compared against any other string of bits." Id. at 0045. In fact, as

per Appellant's buyer/seller example, such interests are described as description of an item

wanted/offered and the price range each is willing to pay/sell. Id. at 0048-0050. Therefore, such

interests are merely parameters set and saved in the profile of a buyer/seller so that targeted

matching and advertising between buyers and sellers can occur efficiently. Id.

Shear's dynamic and comprehensive system and method for matching, selecting,

narrowcasting and/or classifying based on rights management and/or other information is

directed to solve these problems by comparing things that match one's interests, lifestyle, habits,

personality, things that one can afford, things that can help one at work, etc. (column 8, lines 27-

55). In fact, Shear discloses a wide-ranging interest matching system "capable of handling:

consumer information; computer information; business information; entertainment information;

other content information; information about physical products; all other kinds of information. It

can reflect and employ all kinds of rights to optimize matching processes, including: content

rights; privacy rights; governmental and societal rights; provider rights; distributor rights;

consumer rights; workflow rights; other value chain participant rights; business and personal

processes of all kinds. It can [further] employ all kinds of parameter information, including:

budget, pricing, redistribution, location (of party, item, etc.), privacy, identity authenticity and/or

specificity [and] any other parameter information (column 13, lines 9-44)."

Appellant's mischaracterizes the examiner's position and especially the Shear reference

by continuously referring to the terms "value chain" in arguing its position (Appellant's brief

pages 11-14). Appellant's attempt to limit the scope of the Shear reference to the terms "value

chain" and submitting extraneous evidence from a website as to a senate judiciary hearing

unrelated to the claims at hand is unpersuasive and immaterial. Id.

As clearly indicated in the examiner's rejection and abundantly clear in the Shear patent, matching of interests employ comparison of various types of data including comparison of any kind of information or profile data (i.e., Appellant's religion matching example 0052-0053), parameter data (i.e., Appellant's buyer/seller example 0048), or value chain participant rights data (i.e., business rights employed for conducting online auctions for merchandise as per Appellant's internet based marketplaces or auctions 0051). In fact, Shear provides various examples and instances of value chains as merely representing matching of sets of interests of participants (column 16, lines 1-7, 31-39; column 20, lines 40-49). Therefore, Appellant's limited focus and contention over the terms "value chain" are inconsistent with the embodiments put forward by Appellant in the specification as noted above and more importantly merely represent just one type of data among a myriad of interests disclosed by Shear.

It is axiomatic that a progressive matching of various sets of data must occur before any kind of match or non-match can be determined. Shear discloses a range of matching engines employing a variety of mechanisms including Appellant's hierarchical (specification 0052; Shear columns 33, line 48-column 34, line 65) and automatic push/pull technique (specification 0050; Shear column 54, line 15-44). Although Shear does not utilize the terms "progressive matching," he describes sequences of matches and/or nested matches, grouping of matches and even the cluster analysis provided by Hilsenrath (Shear: column 16, lines 55-65; column 42, lines 6-26). In fact, the examiner simply combined Hilsenrath to show that progressive cluster and comparison matching of data are old and well known in the art (Hilsenrath: column 4, lines 29-32; column 8, lines 28-64; column 11, lines 15-56; column 12, lines 19-32). As a result,

although the Shear reference provided for various techniques and mechanisms employing a

"progressive comparison," the examiner provided the Hilsenrath reference to show that such a

progressive comparison is old and well known in the art, as evidenced by the inclusion of the

cluster analysis in the Shear reference as indicated above. In fact Appellant concedes as much in

pages 14-15 of the brief, yet indicates that Hilsenrath fails to disclose Appellant's claimed

"partial disclosure." As noted above in section (5), Claim 1 does not provide for partial

disclosure of matched interests as alleged by Appellant and therefore the examiner has clearly

established a prima facie case of obviousness under 35 U.S.C. 103(a) as per claims 1-9.

b.   Subject Matter of Independent Claim 10:

The examiner submits that claim 10 is a computer-implemented process employing the

comparison matching system of claim 1, with the additional step of partially disclosing specific

interests between at least two unique participants.

As per claim 10, Appellant argues that the Shear reference fails to teach, describe or

suggest "partially disclosing" or "partially revealing" interests between two or more entities

(Appellant's brief at 22). Shear in fact discloses a confidential and partial disclosure mechanism

recognizing that certain personal information must be hidden from a service provider and other

parties such as a disability, cancer or HIV infection or any other information deemed secret by

the parties (column 9, line 41-column 10, line 4). Furthermore, Shear provides a working

example of using such information for targeted advertising (specification 0050) while partially

disclosing only relevant data to each party (column 11, lines 45-67; column 12, lines 1-19).

Moreover, Shear indicates that the system is dynamic enough such that "partially and/or entirely

new variables may be introduced to one or more existing set of variables" in order to change,

modify and process characteristics or interests (column 21, lines 20-32). In other words,

Appellant's "interest comparison [software] module" similarly can be programmed to "compare

a sequence of one-way hashes or partial one-way hashes of the interests" or "individual

characters or bits of the hashes," to determine and disclose matches (specification 0045-0046).

In an example provided by Shear, partial disclosure of interests is used to maintain a high degree

of confidentiality and privacy by selecting and/or limiting the nature, range and detail of

information sent between parties in an organization (column 60, lines 53-67). In fact, Shear's

dynamic comparison and matching process discloses a more refined granular node-matching

engine wherein multiple types of interests and sub-interests can be continuously matched and

selectively disclosed to execute Appellant's claimed subject matter comprehensively (see Shear

Figure 16(C) and associated text).

c.   **Subject Matter of Independent Claim 17:**

Claim 17 is directed to a computer readable medium of process claim 10. Appellant

relies on the above-recited arguments of claim 10 and in the interest of time, the examiner relies
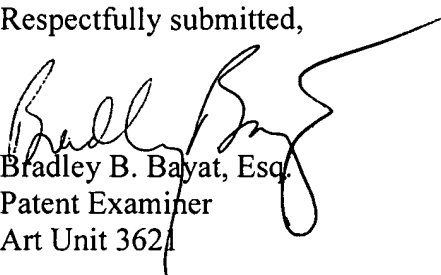
on the above noted response to Claim 10.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related

Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

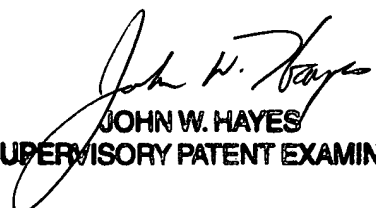Bradley B. Bayat, Esq.
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